The court has power to grant an extension of time for appearance. See *Lowrie* v. *Castle*, 198 Mass. 82, 83 N. E. 1118; *Poultney* v. *City of La-Fayette*, 12 Pet. 472. And extending the time for answering extends the time for appearance. *Littauer* v. *Stern*, 177 N. Y. 233, 69 N. E. 538. But a special appearance for the purpose of moving to quash the service of process does not extend the time for a general appearance and answering to the merits. *Mantle* v. *Casey*, 31 Mont, 408, 78 Pac. 591.

In some jurisdictions it is held that where the defendant appears specially to object to the jurisdiction and the objection is overruled he must elect either to stand on his objection or to go into the merits, and by doing the latter he waives the former. *DeJarnette* v. *Dreyfus* 166 Ala. 138, 51 South. 932; *Corbett* v. *Physicians' Casualty Ass'n*, 135 Wis. 505, 115 N. W. 365, 16 L. R. A. (N. S.) 177. See also the dissenting opinion of Sanders, J. in *Fisher* v. *Crowley*, 57 W. Va. 312, 50 S. E. 422. An exception to this rule exists where the appearance is not voluntary. *Warren* v. *Crane*, 50 Mich. 300, 15 N. W. 465.

In many other jurisdictions, however, it is held, perhaps with sounder reason, that the defendant does not lose the benefit of his objection to the jurisdiction by afterwards, when the objection is overruled, pleading to the merits. *Harkness* v. *Hyde*, 98 U. S. 476. This doctrine applies when the defendant secures a ruling upon his objections to the jurisdiction and preserves his exceptions to that ruling. *Fisher* v. *Crowley, supra; Walling* v. *Beers, supra; Spratley* v. *Louisiana, etc., R. Co.*, 77 Ark. 412, 95 S. W. 776. This rule prevails generally in the Federal courts, following the principle laid down in *Harkness* v. *Hyde, supra*. But the first rule above stated seems applicable in Virginia. See *Shepherd* v. *Starbuck*, 118 Va. 682, 88 S. E. 59.

DAMAGES—GRATUITOUS SERVICES AS ELEMENT OF DAMAGES—NURSING.—The plaintiff was injured by the negligence of the defendant. As a result of this injury the plaintiff was confined to his bed for three months during which time he was nursed gratuitously by members of his family. The trial court instructed the jury that such gratuitous nursing was a proper element of damages. *Held*, the instruction is erroneous. *Baldwin* v. *Kansas City R. Co.* (Mo.), 218 S. W. 955.

Medical attendance and nursing rendered the plaintiff gratuitously by some person other than a member of his family have always been treated as proper elements of damages. *Klein* v. *Thompson*, 19 Ohio St. 569; *Varnham* v. *City of Council Bluffs*, 52 Iowa 698, 3 N. W. 792; *Pennsylvania Co., etc.*, v. *Marion*, 104 Ind. 239, 3 N. E. 874. Some courts however hold that if the person rendering these services is a member of the plaintiff's family and there is no express promise on the part of the plaintiff to pay therefor, the gratuitous nursing does not constitute an element of damages. *Gibney* v. *St. Louis Transit Co.*, 204 Mo. 704, 103 S. W. 43. See also *Peppercorn* v. *City of Black River Falls*, 89 Wis. 38, 61 N. W. 79. This view is based upon the ground that damages are compensatory in the absence of extenuating circumstances, and where the plaintiff has been put to no expense and incurred no liability he cannot recover. But expense incurred by the person in

rendering the gratuitous services is always considered a proper element of damages. *Dean* v. *Wabash R. Co.*, 229 Mo. 425, 129 S. W. 953. Also, where the services were rendered in a professional capacity, it has been held that their value is admissible in evidence although they were rendered by a member of the plaintiff's family. For example, where the person rendering the services was a professional nurse. *Kimball* v. *Northern Electric Co.*, 159 Cal. 225, 113 Pac. 156.

But the better view, and the one upheld by perhaps a majority of the courts is that the value of gratuitous services is admissible in evidence although the services were rendered by a member of the plaintiff's family. *Wells* v. *Minneapolis Baseball, etc., Ass'n*, 122 Minn. 327, 142 N. W. 706, 46 L. R. A. (N. S.) 606, Ann. Cas. 1914D, 922; *Varnham* v. *City of Council Bluffs, supra.* The services thus gratuitously and voluntarily rendered are intended for the benefit of the plaintiff and not for the benefit of the defendant. See *Wells* v. *Minneapolis Baseball, etc., Ass'n, supra.*

There is no Virginia case directly in point. In the case of *Norfolk Ry. and Light Co.* v. *Spratley*, 103 Va. 379, 49 S. E. 502, a judgment in the lower court that money expended by a mother for medical attention to her child could be recovered in an action by the child was allowed to stand, the court refusing to discuss the point involved because no exception was properly taken.

FORFEITURES—PROPERTY OF INNOCENT PERSONS USED IN VIOLATION OF LAW.—The driver of an automobile brought intoxicating liquors into the State in violation of the law. In an information to enforce forfeiture of the automobile under the Prohibition Act of 1918, the defense was ignorance of the owner of the car of its unlawful use. Held, the automobile is forfeited. *Landers* v. *Commonwealth* (Va.), 101 S. E. 778. For discussion of principles, see NOTES, p. 583.

INTOXICATING LIQUOR—DAMAGES ALLOWED FOR MENTAL SUFFERING CAUSED BY UNLAWFUL SEARCH AND SEIZURE.—The plaintiff, while alighting from a train, intrusted her suit case to a transfer man, and a short time later the city marshal searched the suit case for alcoholic liquors supposed to belong to the transfer man over his portest and without a search warrant. An action for compensatory damages including mental suffering was brought. *Held*, mental suffering is a proper element of damages. *United States Fidelity and Guaranty Co.* v. *State* (Miss.), 83 South. 610.

This decision was based on a violation of the Bill of Rights relating to unlawful searches and seizures which the defendant, as city marshal, was presumed to know. A willful wrong having been committed, damages for resulting mental suffering were properly submitted to the jury. *United States Fidelity and Guaranty Co.* v. *State, supra.*

Damages for mental suffering have been allowed in cases of willful wrong, especially those affecting the liberty, character, reputation, personal security or domestic relations of the injured party. See *Western Union Tel. Co.* v. *Rogers*, 68 Miss. 748, 9 South. 823, 13 L. R. A. 859, 24